

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN ALLAN WALTERS**, on March 9, 2001 at 8:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Allan Walters, Chairman (R)  
Rep. Debby Barrett, Vice Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Norma Bixby (D)  
Rep. Dee Brown (R)  
Rep. Donald L. Hedges (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Jent (D)  
Rep. Michelle Lee (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Gay Ann Masolo (R)  
Rep. Douglas Mood (R)  
Rep. Alan Olson (R)  
Rep. Holly Raser (D)  
Rep. Rick Ripley (R)  
Rep. Clarice Schrumpf (R)  
Rep. Frank Smith (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Ruthie Padilla, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 370, 3/5/2001; SB 370,  
3/5/2001; SB 8, 3/5/2001; SB  
89, 3/5/2001; SB 50, 3/5/2001  
Executive Action: SB 8, SB 50, SB 370

HEARING ON SB 370

Sponsor: SENATOR MIKE HALLIGAN, SD 34, MISSOULA

Proponents: Mike O'Connor, Montana Public Employees Retirement  
Administration  
Ed McLean, Montana Judges Association  
Mark Taylor, Montana Judges Association

Opponents: None

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 0}*

SENATOR MIKE HALLIGAN, SD 34, MISSOULA, said the bill simply allows a judge who has had at least 5 years of service to retire at the age of 60, rather than 65. The fiscal note shows that the bill is fiscally sound at that level by a large amount. The bill will also help with the back log issues of the District Court.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 2.1}*

Mike O'Connor, Montana Public Employees Retirement Administration is in support of the bill. In the Judges Retirement System there currently are 46 active members and 27 retiree and beneficiary. The bill will reduce the normal retirement age to age 60, which is the same PERS. The system can absorb the cost and still be actuarially sound and does not take any additional contributions.

Ed McLean, Montana Judges Association said this is the first attempt to bring Judges Retirement Systems into compliance with all the other retirement systems by bringing the age down to age 60. This will also alleviate the stress of keeping cases current. Presently it takes 2-3 years to have a case outside of the jurisdiction brought to completing. With more judges being able to go to the jurisdictions the time would be greatly decreased.

Questions from Committee Members and Responses:

*{Tape : 1; Side : A; Approx. Time Counter : 7}*

REPRESENTATIVE RASER asked why lines 19 and 20 of the bill have been stricken. SENATOR HALLIGAN replied those lines were not applicable at all to the section

**Closing by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 8.2}*

**SENATOR GALLIGAN** commented that he closed.

**HEARING ON SB 8**

**Sponsor:** **SENATOR MIGNON WATERMAN, SD 26, HELENA**

**Proponents:** None

**Opponents:** None

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 8.7}*

**SENATOR MIGNON WATERMAN, SD 26, HELENA** stated the bill is a very simple bill creating an act allowing administrative rule making authority for laws that are not yet effective and provide that a rule is not effective until a law becomes effective.

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : A; Approx. Time Counter : 13.5}*

**REPRESENTATIVE HEDGES** asked if rules are written before laws become effective, is there sufficient knowledge in the community of the new law. **SENATOR MIGNON** replied yes, they are involved in the rule making.

**REPRESENTATIVE MOOD** asked if it is normal for rule making authority to be delayed until the effective date. **SENATOR MIGNON** said the Tax and Revenue Committee tried very hard to figure out a way around doing it that way, but the Attorneys told them that the effective date is when the rules can be written.

**Closing by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 17.2}*

**SENATOR WATERMAN** stated she closes.

HEARING ON SB 89

Sponsor: SENATOR MIGNON WATERMAN, SD 26, HELENA

Proponents: Mike O'Connor, Montana Public Employees Retirement  
Administration  
Stephen Kologi, Association of Montana Retired  
Public Employees  
Tom Bilodeau, MEA-MFT  
Tom Schnieder, Montan Public Employees Association  
Troy McGee, Montana Police Officers Association  
Pat Clinch, Montana State Firefighters Association  
Jim Smith, Montana Sheriffs and Piece Officers  
Association

Opponents: None

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 18.4}*

SENATOR MIGNON WATERMAN, SD 26, HELENA told the committee, the bill is to reduce the waiting period for the Guaranteed Annual Benefit Adjustment (GABA). The average PERS retiree receives a monthly benefit check of \$621.00. A person who retires from state employment has to purchase their own health insurance and today a non-medicare retiree pays \$3,180.00 per year for their health insurance, which is 42% of the average retirees benefit. There are also increased costs in prescription coverages and increased electrical rates. In 1997, the legislature adopted the GABA. GABA provided retirees with a 1.5% increase in benefits each year, however, the retiree had to wait 3 years following retirement before they were eligible for the increase. This bill would reduce the waiting period from three years to one year for all PERS administered systems.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 21}*

Mike O'Connor, Montana Public Employees Retirement Administration said one of the directions from the legislature to their board is to review the sufficiency of benefits and to make recommendations to the legislature on trying to maintain a stable standard of living for retirees. This bill tries to maintain that stable value. The GABA does help retirees on a fixed income to keep up with inflation and if you look at the average inflation over the last 75 years, the average is 3.1%.

**Stephen Kologi, Association of Montana Retired Public Employees** are in support of the bill. He said last year the interim committee asked for recommendations on retirement matters for his organization. They came up with some proposals. One was to increase the GABA from 1.5% to 3% and to have the waiting period to be changed from three years to one year.

**Tom Bilodeau, MEA-MFT** told the committee this bill is using available surplus funds withing the PERS system. Funding will come from the system assets themselves. This bill is very important to the membership, public employees in general. It is very good legislation and has the money available to do it and urged the committee for a do pass.

**Tom Schnieder, Montan Public Employees Association** stated when the actuary for the retirement system was asked what his feelings were on this particular bill, he replied there were no other plans with 3 year waiting periods and did not understand why this plan did. When something like a 3 year waiting period is put in effect, it sets retirees back so far to begin with, they can never catch up.

**Troy McGee, Montana Police Officers Association** said they are all in support of the bill.

**Pat Clinch, Montana State Firefighters Association** stated the firefighters he represents, that are in both the Firefighters Unified Retirement System and the PERS are all in favor of the bill.

**Jim Smith, Montana Sheriffs and Piece Officers Association** told the committee they are in support of the bill.

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : B; Approx. Time Counter : 0.2}*

**REPRESENTATIVE BROWN** asked why teachers are not included in the bill. **Mike O'Connor** replied that this bill was brought forward my PERS. He feels in the future, they will see this in the Teachers Retirement System when they have the money available to do it.

**REPRESENTATIVE DELL** asked if the Retirement System absorbs the increases accordingly by raising the contributions. **Mike O'Connor** replied yes, the normal cost is still being paid for through the contributions. **REPRESENTATIVE DELL** clarified that

when it is said the trust fund will be observing the cost, it is absorbed through increases to the payroll.

**REPRESENTATIVE LEHMAN** asked if the bill passes, how it will intertwine with SB 51. **Tom Schnieder** replied there really is not any connection between the two bills.

**REPRESENTATIVE MOOD** asked **Mike O'Connor** if he could create a chart that would indicate how the impacts of SB 294 and this bill would accumulate. **Mike O'Connor** said yes.

**REPRESENTATIVE LEHMAN** asked **Mike O'Connor** if his officer has access as to what the social security benefits are for those people who are eligible for social security and who also drawing retirement from PERS. **Mike O'Connor** said they would have the same access as anyone would by looking on their website.

**Closing by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 12.3}*

**SENATOR WATERMAN** said she feels the bill is a good proposal and will correct a situation that leaves some retirees waiting 3 years to receive their GABA adjustment.

**HEARING ON SB 50**

**Sponsor:** **SENATOR MIGNON WATERMAN, SD 26, HELENA**

**Proponents:** **Bill Bayles, Department of Administration**  
**Cliff Christian, American Heart Association**  
**Christian Nie, American Cancer Society**  
**Colleen White, Department of Corrections**  
**Joan Miles, Lewis & Clark County Health Department**  
**Drew Dawson, Public Health and Human Services**  
**Dick Paulson, Montana Lung Association**

**Opponents:** **None**

**Opening Statement by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 13.2}*

**SENATOR MIGNON WATERMAN, SD 26, HELENA** told the committee the bill would require that all state buildings be smoke free. All buildings owned and occupied by the state would have to be smoke free by the effective date of the bill and buildings leased and

occupied by the state would be smoke free as soon as practical but no later than July 1, 2001. Agencies that share a facility with another entity that is leased will make the portions of their facility smoke free as soon as practical but also no later than July 1, 2001. Dealing with the cost of individuals with smoke related illnesses, it is only appropriate to not allow smoking in the buildings.

**Proponents' Testimony:**

***{Tape : 1; Side : B; Approx. Time Counter : 16}***

**Bill Bayles, Department of Administration** said there has been a problem with making buildings smoke free. A lot of agencies are trying to make their facilities smoke free and this present legislation encourages the development or creation of smoking areas so they can.

**Cliff Christian, American Heart Association** submitted written testimony and information of Environmental Tobacco Smoke.

**EXHIBIT (sth54a01)**

**Christian Nie, American Cancer Society** stated 30% of all cancer related deaths are as a result of tobacco use. They need to pass policies like this one to eliminate known carcinogens that do cause cancer. Because, they are unfiltered, the carcinogens in second hand smoke are up to 100 times higher than the smoke inhaled directly through cigarettes and cigars. She wanted the committee to know that passing a bill like this one, is one piece of the puzzle in reducing the use of tobacco in the society.

**Colleen White, Department of Corrections** submitted written testimony. **EXHIBIT (sth54a02)**

**Joan Miles, Lewis & Clark County Health Department** told the committee health reasons are one reason why state employees should be provided with a smoke free environment for work. The largest employer in Helena is the State of Montana and when talking with the State of Montana, they said they would not be subject to a local ordinance addressing smoking in the work place, in fact, they would do the opposite and provide a smoking area in their buildings. They hope in Helena, that the largest employer is the leader in the issue rather than being the exception to the rule.

**Drew Dawson, Public Health and Human Services** submitted written testimony. **EXHIBIT (sth54a03)**

**Dick Paulson, Montana Lung Association** said second hand smoke is the primary cause of children who develop asthma, which is a life long condition and very serious illness. There needs to be an understanding of the environmental impact and how we impact the person next to us by sharing the same air. Environmental tobacco smoke causes about 3,000 lung cancers each year among non smokers. Workers who are exposed to second hand smoke in the work place are also likely to get lung cancer.

**Questions from Committee Members and Responses:**

***{Tape : 2; Side : A; Approx. Time Counter : 0.1}***

**REPRESENTATIVE HEDGES** had a discussion with **SENATOR WATERMAN** and **Bill Bayles**, but the discussion was not picked up very well.

**REPRESENTATIVE SMITH** asked why the bill only addresses smoke and why on tobacco chew. **SENATOR WATERMAN** said the main concern is the second hand smoke and the effect it has on non smokers in the building. **REPRESENTATIVE SMITH** asked if there should be a certain perimeter around the door to be smoke free. **SENATOR WATERMAN** replied that the bill goes as far as she wants it to go right now.

**REPRESENTATIVE RIPLEY** asked if there are in consequences for not following this law. **Bill Bayles** said the law is unclear on that. The only consequence he could see is a law suit for not complying. Other than that he does not know of any.

**REPRESENTATIVE BARRETT** asked how long there has been a prevention programs in Montana against smoking. **Christine Nie** said in 1999 the legislature supported putting money into a comprehensive tobacco prevention program. The governor felt it was very important and invested 3.5 million dollars per year and put together the governors advisory council. The council spoke to experts all across the nation and looked at research and at other states that had successful comprehensive programs and developed a plan. **REPRESENTATIVE BARRETT** then asked how much success they have had with the 3.5 million dollars per year. **Christine Nie** said the program has only been in implementation phase for 12 months. **REPRESENTATIVE BARRETT** asked how many people were employed in the prevention program by the State of Montana. **Drew Dawson** said there are a total of 5 people employed. About 5% of the settlement dollars goes to administration and the rest of the money is out in the field at the community school and various state-wide programs. **REPRESENTATIVE BARRETT** asked how many people were employed at the local level because of the prevention



program that would not have. **Drew Dawson** replied, there are 40 county contracts, which covers about 94% of the population in the state. Each of those will employ a half time or full time employee at the county level. He clarified it was just an approximation.

**REPRESENTATIVE RASER** asked if in a year it is enough time to show a number of success rate for the program. **Christine Nie** commented that it really wasn't enough time.

**Closing by Sponsor:**

***{Tape : 2; Side : A; Approx. Time Counter : 24.5}***

**SENATOR WATERMAN** said there is a current statute that says each agency must provide a smoking area. If the bill does not pass they would have to provide those areas, therefore she feels there is a need for this legislation.

**EXECUTIVE ACTION ON SB 8**

**Motion:** **REP. BROWN** moved that **SB 8 BE CONCURRED IN.**

**Discussion:**

**REPRESENTATIVE MOOD** said he feels it is a very nice bill and that it is unnecessary to have to wait for an effective date to make the rules. He feels the rules should be able to be done ahead of time.

**Motion:** **REP. BROWN** moved that **SB 8 BE CONCURRED IN.** **Vote:** Motion carried unanimously. 18-0

**EXECUTIVE ACTION ON SB 50**

**Motion:** **REP. LEE** moved that **SB 50 BE CONCURRED IN.**

**Discussion:**

**REPRESENTATIVE RASER** said regardless of how they feel about smoking, she felt the part which says the state must establish a smoking area may cause some problems and understands why that should be removed.

**REPRESENTATIVE OLSON** said when the original law was adopted, the attempt was to cure a problem. Now there are individuals suing

because there is not smoking facility. He feels the only way to take care of those kind of problems is to pass the bill.

**CHAIRMAN WALTERS** stated, being a non smoker he does not like to tell people they can not smoke, but he does not like having to breathe the second hand smoke. The cost of smoking is very very large and feels there will even been a larger expense if they have to start building smoking facilities.

**REPRESENTATIVE BROWN** said she smoked for 26 years and understands the addiction, but also likes being in a smoke free building.

**REPRESENTATIVE SMITH** says he agrees with it

**REPRESENTATIVE LEHMAN** said he is going to vote for the bill. He feels it has merit, but when everyone in the state of Montana is smoke free, he expects there be a reduction in the budget for all the people currently being employed.

**REPRESENTATIVE MOOD** said they are coming to the point of making all state buildings smoke free and does not disagree with it. What bothers him is they seem to be on a path making a group of people who have an addiction into victims or targets. He does not like second hand smoke either and is going to vote for the bill, but does not feel completely comfortable about the situation.

**REPRESENTATIVE BARRETT** commented that she is going to vote against the bill. She believes in freedom, wether you smoke or do not smoke, you have to respect others and their rights also. She sees this as a freedom issue and feels we are losing freedom incrementally. She said she opposes second hand smoke as much as anyone else, but next time who is going to be the target for there own safety. Are they going to attack the obese because it is detrimental to their health?

**REPRESENTATIVE OLSON** said he will vote for this because it is public buildings, but would not support something like this in restaurants or bars. People have the choice of were they give there business and he feels this is where it stops.

**REPRESENTATIVE DELL** said he is going to support the bill but also feels this is it. He will not vote for anything further than this.

**REPRESENTATIVE RASER** said this is a cost saving issue. It will save ware and tare on the building and on maintenance. She stated that smokers have rights, but she has the right to breath clean air as well.

**REPRESENTATIVE MASOLO** said she has seen more kids smoking now than she ever has. She was on 4-H panel and asked them what they felt about the smoke prevention programs. They laughed and said their friends smoke now more than they ever did. She has some concerns about the prevention program.

**REPRESENTATIVE SMITH** said he is going to support the bill, but wanted to clarify there wouldn't be very many state buildings if it weren't for the tobacco money.

**REPRESENTATIVE LEHMAN** said he is going to vote for the bill only because it effects state buildings.

**CHAIRMAN WALTERS** said there were some issues brought up about smokeless tobacco. Smokeless tobacco never bothers people and as for obese people , it is not good for the individual but is not going to hurt anyone else.

**Motion:** REP. LEE moved that **SB 50 BE CONCURRED IN.** **Vote:** Motion carried 17-1 with Barrett voting no.

**EXECUTIVE ACTION ON SB 370**

***{Tape : 2; Side : A; Approx. Time Counter : 30}***

**Motion/Vote:** REP. OLSON moved that **SB 370 BE CONCURRED IN.** Motion carried unanimously. 18-0

**ADJOURNMENT**

Adjournment: 10:30 A.M.

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REP. ALLAN WALTERS, Chairman

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RUTHIE PADILLA, Secretary

AW/RP

**EXHIBIT (sth54aad)**